

## Department of Homeland Security

## § 342.5

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AUTHORITY: 8 U.S.C. 1103, 1453.

SOURCE: 28 FR 209, Jan. 9, 1963, unless otherwise noted.

### § 342.1 Notice.

If it shall appear to a district director that a person has illegally or fraudulently obtained or caused to be created a certificate, document, or record described in section 342 of the Act, a notice shall be served upon the person of intention to cancel the certificate, document, or record. The notice shall contain allegations of the reasons for the proposed action and shall advise the person that he may submit, within 60 days of service of the notice, an answer in writing under oath or affirmation showing cause why the certificate, document, or record should not be canceled, that he may appear in person before a naturalization examiner in support of, or in lieu of his written answer, and that he may have present at that time, without expense to the Government, an attorney or representative qualified under part 292 of this chapter. In such proceedings the person shall be known as the respondent.

[29 FR 5511, Apr. 24, 1964, as amended at 37 FR 2767, Feb. 5, 1972]

### § 342.2 Service of notice.

The notice required by 8 CFR 342.1 must be by personal service as described in 8 CFR 103.8(a)(2).

[76 FR 53805, Aug. 29, 2011]

### § 342.3 Allegations admitted; no answer filed; no personal appearance requested.

If the answer admits all material allegations in the notice, or if no answer is filed within the 60-day period or any extension thereof and no personal appearance is requested within such period or periods, it shall be deemed to authorize the district director, without further notice to respondent, to find the facts to be as alleged in the notice

and to cancel the certificate, document, or record. No appeal shall lie from such decision. Written notice of the decision shall be served upon the respondent with demand for surrender of the certificate, document, or record forthwith.

### § 342.4 Answer asserting defense; personal appearance requested.

If the respondent files an answer within the prescribed period asserting a defense to the allegations in the notice, or requests a personal appearance, with or without an answer, the district director shall designate a naturalization examiner to consider the case. The respondent shall be notified that he may appear in person or through counsel with any witnesses and evidence in defense of the allegations, and shall be informed of the date, time, and place for such appearance.

### § 342.5 Conduct of examination.

(a) *Authority of naturalization examiner.* The naturalization examiner assigned to consider the case shall have authority to administer oaths or affirmations to respondent and witnesses, issue subpoenas, present and receive evidence, rule upon offers of proof, take or cause depositions or interrogatories to be taken, regulate the course of the examination, take testimony of respondent and witnesses, grant continuances, consider and rule upon objections to the introduction of evidence, make recommendations to the district director as to whether cancellation shall be ordered or the proceedings terminated, and to take any other action as may be appropriate to the conduct and disposition of the case.

(b) *Assignment of additional officer.* The district director may, in his discretion, assign an officer of the Service to examine and cross-examine the respondent and witnesses and to present evidence pertinent to the case. The naturalization examiner designated under § 342.4 may take such part in the proceedings as he may deem necessary.

(c) *Examination.* The naturalization examiner designated under § 342.4 shall, prior to commencement of the examination, make known to the respondent his official capacity and that of any officer assigned pursuant to paragraph